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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,147	12/28/2000	Todd Schoepflin	OT2.P68	8715

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EXAMINER

SIANGCHIN, KEVIN

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/751,147

Applicant(s)

SCHOEPFLIN ET AL.

Examiner

Kevin Siangchin

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☒ Newly proposed or amended claim(s) 26 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 26.

Claim(s) objected to: _____.

Claim(s) rejected: 1-25.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: Continuation of 5. does NOT place the application in condition for allowance because: Continuation of 5. does NOT place the application in condition for allowance because: Continuation of 5. does NOT place the application in condition for allowance because: Briefly, the general thrust of the Applicant's arguments (Applicant's response dated July 19, 2004 - hereinafter, Remarks) is that "Sun et al. does not disclose a path between these two points [a control point and an adjacent control point], when the distance is less than a threshold distance, as required by Claim 1" (Remarks, page 11, paragraph 4). Indeed, the Applicant alleges that the Examiner has admitted as much in the Final Office Action (i.e. Final Office Action, page 5, paragraph 8). In response to these allegations, the Applicant should notice that the comments on page 5, paragraph 8 of the Final Office Action were responsive to the Applicant prior assertion that "the two control points uses for determining distance are different than the control points for which the path is derived" - an assertion which, in and of itself, does not imply that no path is derived between the two points, when the distance is less than a threshold. The Examiner, therefore, respectfully submits that no such admission was made in the Final Office Action. Moreover, the comments on page 5, paragraph 8 of the Final Office Action were made with respect to the first threshold of Sun et al. and any alleged admission would have been made relative to this first threshold. However, it was shown that Sun et al. does disclose a path between a control point and an adjacent control point, when the distance is less than the second threshold distance of Sun et al. See paragraph 12 of the Final Office Action. In the Final Office Action, the Examiner merely reinterpreted what constituted the "first set of rules" ("rules" being given a reasonably broad interpretation) relative to the second threshold. Redefining the first set of rules in this manner, it was shown in the Final Office Action, that the method of Sun et al. adequately satisfies all limitations of Claims 1 and 13. With regard to Claim 26, the Applicant has expressed the subject matter, deemed allowable in the Final Office Action, in independent form. Claim 26 is, therefore, allowable.


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